

ASSEMBLY BILL

No. 241

Introduced by Assembly Member Dickerson

February 14, 2001

An act to amend Section 23550.5 of, and to add Section 14601.6 to, the Vehicle Code, relating to vehicles.

LEGISLATIVE COUNSEL'S DIGEST

AB 241, as introduced, Dickerson. Traffic offenses.

(1) Existing law makes it a crime to operate a motor vehicle without a valid driver's license or when a person's driving privilege has been suspended or revoked.

This bill would make it a misdemeanor or felony if a person is convicted of any of the above offenses and the recent conviction occurred within 7 years of 3 or more separate violations, resulting in convictions. Because this would create a new crime, the bill would impose a state-mandated local program.

The bill would prohibit the court from striking any prior conviction, require the court to impose, as a condition of probation, if probation is granted, a mandatory 270 days of confinement in county jail, and, if a person is convicted of a felony, order the forfeiture of the vehicle driven at the time of the violation if the defendant is the registered or legal owner of the vehicle.

(2) Under existing law, a person, who is convicted or driving a vehicle while under the influence of an alcoholic beverage, any drug, or both, driving with an excessive blood-alcohol concentration, or driving when addicted to any drug, (DUI), is required to be punished by specified imprisonment and fines. The punishment and sanctions are enhanced or treated as separate public offenses where a person is

convicted of a subsequent violation, occurring within specified period of time of the current violation.

This bill would make it a felony if a person is convicted of a DUI offense occurring within 10 years of 2 or more prior felony DUI convictions, punished as specified, or one prior felony DUI conviction, punished as specified.

This bill would prohibit the granting of probation, the suspension of the execution or imposition of the sentence, and the dismissal of any prior conviction of a person convicted of the above offense.

The bill would require any person so convicted to be designated an habitual traffic offender for a 10-year period.

Because this bill would create a new crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 14601.6 is added to the Vehicle Code,
2 to read:
3 14601.6. (a) A person is guilty of a public offense,
4 punishable by imprisonment in the state prison or in the county jail
5 for not more than one year and by a fine of not more than one
6 thousand dollars (\$1,000) if that person is convicted of violating
7 subdivision (a) of Section 12500, or Section 14601, 14601.1,
8 14601.2, 14601.3, 14601.4, or 14601.5 and the offense occurred
9 within seven years of three or more separate violations of
10 subdivision (a) of Section 12500, or Section 14601, 14601.1,
11 14601.2, 14601.3, 14601.4, or 14601.5, or any combination of
12 these violations, that resulted in convictions.
13 (b) Notwithstanding any other law, including, but not limited
14 to, Section 1385 of the Penal Code, the court shall not strike any
15 prior conviction alleged in a complaint or an information bringing
16 a current offense within the provisions of subdivision (a) for the



1 purpose of avoiding or minimizing the punishments set forth in
2 subdivision (a). This subdivision does not prohibit a finding under
3 Section 41403.

4 (c) Notwithstanding any other law, if the court places the
5 defendant on probation, or suspends the imposition or execution
6 of sentence, the court shall impose, as a condition of probation, a
7 mandatory period of confinement in the county jail of 270 days.

8 (d) If a person is convicted under this section of a felony, and
9 that person is the registered or legal owner of the vehicle driven at
10 the time of the violation, the court shall order that vehicle forfeited
11 in accordance with the procedures set forth in Section 246.1 of the
12 Penal Code.

13 SEC. 2. Section 23550.5 of the Vehicle Code is amended to
14 read:

15 23550.5. (a) A person is guilty of a public offense,
16 punishable by imprisonment in the state prison or in a county jail
17 for not more than one year and by a fine of not less than three
18 hundred ninety dollars (\$390) nor more than one thousand dollars
19 (\$1,000) if that person is convicted of a violation of Section 23152
20 or 23153, and the offense occurred within 10 years of any of the
21 following:

22 (1) A prior violation of Section 23152 that was punished as a
23 felony under Section 23550 or this section, or both, or under
24 former Section 23175 or former Section 23175.5, or both.

25 (2) A prior violation of Section 23153 that was punished as a
26 felony.

27 (3) A prior violation that was punished as a felony under
28 Section 191.5 of, or paragraph (1) or (3) of subdivision (c) of
29 Section 192 of, the Penal Code. The person's privilege to operate
30 a motor vehicle shall be revoked by the Department of Motor
31 Vehicles under paragraph (7) of subdivision (a) of Section 13352.

32 *(b) (1) A person is guilty of a felony, punishable by*
33 *imprisonment in the state prison for a period of five, eight, or*
34 *eleven years and by a fine of not less than one thousand dollars*
35 *(\$1,000) nor more than ten thousand dollars (\$10,000), if that*
36 *person is convicted of a violation of Section 23152 or 23153, and*
37 *the offense occurred within 10 years of the following:*

38 *(A) Two or more prior violations of Section 23152 or 23153*
39 *that were punished as felonies under Section 23550, or former*
40 *Section 23175.5, or both.*

1 (B) Two or more prior violations of Section 23152 or 23153
2 that were punished as felonies under subdivision (a) of Section
3 23550.5, or former Section 23175.5, or both.

4 (C) A prior violation of Section 23152 or 23153 that was
5 punished as a felony under subdivision (b) of Section 23550.5.

6 (2) Notwithstanding any other law, probation shall not be
7 granted to, nor shall the execution or imposition of sentence by
8 suspended for, a defendant convicted under paragraph (1).

9 (3) Notwithstanding any other law, including Section 1385 of
10 the Penal Code, the court shall not dismiss any prior conviction
11 alleged in a complaint or an information in order to avoid or
12 minimize the punishments set forth in paragraph (1).

13 (4) Notwithstanding any other law, a defendant sentenced
14 pursuant to paragraph (1) shall be awarded custody credits,
15 including presentence custody, in accordance with and pursuant
16 to Section 2933.1 of the Penal Code.

17 ~~(b)~~

18 (c) Any person convicted of a violation of Section 23152 that
19 is punishable under ~~this section~~ subdivision (a) shall be designated
20 an habitual traffic offender for a period of three years, and any
21 person convicted of a violation of Section 23152 or 23153 that is
22 punishable under subdivision (b) shall be designated an habitual
23 traffic offender for a period of 10 years, subsequent to the
24 conviction. The person shall be advised of this designation under
25 subdivision (b) of Section 13350.

26 SEC. 3. No reimbursement is required by this act pursuant to
27 Section 6 of Article XIII B of the California Constitution because
28 the only costs that may be incurred by a local agency or school
29 district will be incurred because this act creates a new crime or
30 infraction, eliminates a crime or infraction, or changes the penalty
31 for a crime or infraction, within the meaning of Section 17556 of
32 the Government Code, or changes the definition of a crime within
33 the meaning of Section 6 of Article XIII B of the California
34 Constitution.